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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,629	04/14/2004	Joseph L. Tallal JR.	GM2:1007	6276
34725 7590 09/12/2008 CHALKER FLORES, LLP 2711 LBJ FRWY Suite 1036 DALLAS, TX 75234				
EXAMINER				
AHMED, MASUD				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/824,629

Applicant(s)

TALLAL, JOSEPH L.

Examiner

MASUD AHMED

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32, 45 and 47-58 is/are pending in the application.
- 4a) Of the above claim(s) 33-44 and 59-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32, 45 and 47-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.U.C. 121:

- I. Claims 1-32 and 45-58, drawn to a system and method of a vending device with multi-level wagering system. Classified at 463 subclass 16 and 20.
- II. Claim 33-44 and 59-63, drawn to a system and method for a multi-level wagering account. Classified at 463 subclass 25.

1. Inventions of group I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination are separately usable. In the instant case, subcombination group I has separate utility such as a system and method of a vending device with multi-level wagering system which differs from group II which is a system and method for a multi-level wagering account. In this instant case examiner would have to conduct multiple separate searches, Therefore it would put an extra burden on the examiner. See MPEP § 806.05(d).

2. As stated above these groups are different then each other and classified in different subclasses. For instance the group II the method for multi-level wagering account can independently implement in any computer based game system by manipulating the software or firmware within the system which differs completely and

independently than group I where a system is specifically required to have vending system of multi-level wagering system.

3. This restriction is made final in response to the applicant's traversal made on 6/11/08.

Response to Amendment

Applicant has amended claims 1, 4, 11, 18, 19, 25, 32, 45, 49 and canceled claim 46. Examiner has considered the amendment to the claims very carefully.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6-18, 21-32 and 45, 47-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes, Jr. et al (US 6,319,122), in view of Oram et al (US 2004/0063494).

Regarding claims 1, 18, 32 and 45, Packes discloses a gaming system providing payouts based on the activity of other players (col 2, lines 40-47); Packes further discloses each player is eligible to receive an increase play value on their account based on the activity or the sales price accepted on subsequent gaming session by other players, same way the multi-level marketing arrangement reward work (col 9, lines 57-67); Packes is silent on disclosing a machine that creates a multi-level

wagering account coupled to the gaming machine. Oram teaches a prepaid gaming card or an account can be purchased at a retailer or at a kiosk (another word for vending machine) (para 0007). Packes discloses a player tracking card that is connected to player's account are tracked in order to identify the players and their accounts (col 9, lines 35-45); Packes further discloses each subsequent gaming sessions are tracked and monitored and players accounts are identified to credits the previous game session initiator accounts based on the sales price accepted or game played from the current user (col 8, lines 24-28 and col 10, lines 32-45); Packes teaches and suggests

" Referring now to FIG. 10, there is illustrated a method 1000 for determining bonuses based on the activity of subsequent gaming sessions. Generally, each player is eligible to receive bonuses based on the results of the gaming sessions initiated after that player, in much the same way that a multi-level marketing arrangement rewards participants with a commission based on sales of all subsequent sales people hired by the original participant. The more subsequent salespeople that are hired, the higher the potential commissions for the original hiring salesperson. In much the same way, the present invention encourages players to continue a given gaming session in that the longer the session continues, the more likely it is that other subsequent gaming sessions will be initiated. In one embodiment, each jackpot won by a player of a subsequent gaming

session results in a bonus monetary payout for the first player, as described more fully below.” Packes teachings of players’ accounts and rewarding players based on the activities of other players are an alternative of setting up multi-level wagering accounts on a machine to be rewarded by other players’ activities. Since the Oram and Packes are analogous in art because they are from the same field of endeavor, therefore it would have been obvious to an ordinary skilled artisan at the time of invention to modify Packes gaming machine to have an option for players to set up a multi-level wagering account on the gaming machine and integrate Oram’s gaming card purchasing kiosk so that players can be rewarded for other player’s activities and attract more players to join and play.

Regarding claims 2-3, Packes discloses a gaming machine where sales price of the game is accepted, in another word an wagering gaming machine where the processor and the data device integrated into the single device (col 10, lines 32-37). Oram teaches a prepaid gaming card or account device (para 0007). Therefore it would have been obvious to ordinary skilled artisan at the time of invention to integrate Oram’s prepaid gaming card purchasing kiosk to Packes gaming machine to make it convenient for the players to create subsequent gaming wagering account.

Regarding claim 6 , 21 and 56, Packes teaches a gaming system with a player account that lets player wager or purchase the play on the gaming machine (col 8, lines 24-28) and provide the players information such as subsequent gaming session information (col 5, lines 15-20).

Regarding claims 7 and 22, Packes teaches a player identifier smart card associated with the players account (col 5, lines 22-28), a smart card is an alternative for a chip, RFID device, a token or a personal data assistant.

Regarding claim 8 and 23, Packes teaches an account number comprises a password or biometric data (col 5, lines 22-28).

Regarding claim 9 and 24, Packes teaches the one or more gaming machines are slot or video poker (col 11, lines 53-55); a network based game system that is accessible by one or more computer or server or a communication devices (col 4, lines 10-30).

Regarding claim 10, Packes teaches a network based accounting system associated with the network based gaming system (col 10, lines 45-47).

Regarding claim 11, 25 and 49, Packes teaches different predetermined payouts table and formula is used to randomly award the player for the subsequent playing session (col 4, lines 58-65 and col 3, lines 57-62).

Regarding claims 12-13 , 26-27 and 50-51, Packes teaches different predetermined payouts table and formula based on the subsequent session of the gaming, for example Packes teaches a bonus can have an increased probability of winning or free play on gaming machines based on other players activities (col 10 lines 7-17), which are just an alternative of having different levels of matrix in payouts formula.

Regarding claims 14-15 ,28-29 and 52-53, Packes discloses the recording of players playing session along with number of plays and statistics of the winning results from one or more gaming machines (col 7, lines 38-50).

Regarding claims 16, 30, 54-55 and 57, Packes teaches a subsequent gaming session where players results are associated with the players, upon players inserting the identifier the player account information can be retrieved at a remote location, since its a network based game or players winning to be applied to wager or redeem for payout or exchanged for cash (col 8, lines 10-40 and col 10, lines 14-17). However Packes is silent on disclosing transferring winnings to another multi-level wagering account. Oram teaches a prepaid gaming card or account where players can transfer funds between different accounts. Since the Oram and Packes are analogous in art because they are from the same field of endeavor, therefore it would have been obvious to an ordinary skilled artisan at the time of invention to include Oram's fund transfer capability to Packes multi-level or subsequent wagering game system to give player flexibility of transferring winnings and playing using various accounts.

Regarding claims 17 ,31 and 58, Packes teaches the play value or the player account information can be accessed from a remote location (col 10 lines 45-47).

6. Claim 4-5 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes, Jr. et al (US 6,319,122), in view of Arganbright et al (US 6,980,962).

Regarding claims 4 and 19, Packes is silent on teaching a multi-level wagering account that charges a portion of the price as a fee for the operator. It is very common and well known in the art of multi-level marketing that members are charged with a fee to join. Arganbright teaches a multi-level marketing system where members are charged with a fee for using membership benefits (col 27, lines 24-27), which is an alternative way of charging a player for purchasing game in the multi-level marketing concept. Therefor it would have been obvious to ordinary skilled artisan at the time of invention to include the same concept of multi-level marketing to charge a fee to a player for purchasing gaming card or account to Packes subsequent gaming session to benefit the operator.

Regarding claim 5 and 20, Arganbright discloses annually paid members are entitled to members reward program and points or rewards are accrued based on their activities (col 63, lines 57-67). It is known in any art that members benefit or rewards are tied to members account, and if it is paid members account, members must keep the account active in order to keep the rewards. Therefore it would have been obvious to ordinary skilled artisan at the time of invention to include an expiration period for the purchased game for the players to keep them coming back to play more gaming session or lose values of the purchase session to the operator.

Response to Arguments

7. Applicant's arguments filed 6/11/2008 have been fully considered but they are not persuasive. Examiner respectfully disagrees with the applicant at least for the following reason:

8. In response to applicant argument on " the account in Packes is not purchased by the user for the sales price" and "the bonus in Packes is not distributed from the sales price paid by subsequent purchase of the multi-level wagering accounts", examiner respectfully disagrees because Packes clearly teach and suggest following " Referring now to FIG. 10, there is illustrated a method 1000 for determining bonuses based on the activity of subsequent gaming sessions. Generally, each player is eligible to receive bonuses based on the results of the gaming sessions initiated after that player, in much the same way that a multi-level marketing arrangement rewards participants with a commission based on sales of all subsequent sales people hired by the original participant. The more subsequent salespeople that are hired, the higher the potential commissions for the original hiring salesperson. In much the same way, the present invention encourages players to continue a given gaming session in that the longer the session continues, the more likely it is that other subsequent gaming sessions will be initiated. In one embodiment, each jackpot won by a player of a subsequent gaming session results in a bonus monetary payout for the first player, as described more fully below."

9. Therefore it is apparent from the disclosure of Packes that the game play and reward can be based on sales price received from subsequent purchasers.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MASUD AHMED** whose telephone number is (571)270-1315. The examiner can normally be reached on **Mon-Fri 8:00am-5:00pm, Alt Fri, EST**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on **571 272 7147**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A./

Examiner, Art Unit 3714

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714